U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

File: [redacted] Office: VERMONT SERVICE CENTER Date: JAN 21 2000

IN RE: PETITIONER: [redacted]
BENEFICIARY

Petition: Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(k) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(K)

Public Copy

IN BEHALF OF PETITIONER: SELF-REPRESENTED

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

for Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a never married native of Hong Kong and a naturalized citizen of the United States. The beneficiary is a never married native and citizen of India. The director determined that the petitioner and the beneficiary had not personally met within the two-year period immediately preceding the filing date of the visa petition. Further, she found no basis for exercising the Attorney General's authority to waive this statutory requirement.

On appeal, the petitioner does not contest the findings of the director. He states that he couldn't afford to travel to India to meet the beneficiary. He further states "...I thought about taking out a couple of thousand to go see my fiancee in India. But if I had done so, our wedding wouldn't have been the wedding me and her are planning."

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), provides nonimmigrant classification to the fiance or fiancee of a U.S. citizen who intends to conclude a valid marriage with that citizen within 90 days after entry. The Service must review the information and evidence in the record and determine that the parties intend to enter into a bona fide marriage.

According to section 214(d) of the Act, 8 U.S.C. 1184(d), the petitioner must establish that he and the beneficiary have met in person within two years immediately preceding the filing date of the petition. The record in the case at hand reflects that this has not occurred. Nevertheless, this requirement may be waived as a matter of discretion.

According to 8 C.F.R. 214.2(k)(2), the petitioner may be exempted from the requirement for meeting if it is established that compliance would:

(1) Result in extreme hardship to the petitioner; or

(2) Violate strict and long-established customs of the beneficiary's foreign culture or social practice, as where marriages ar traditionally arranged by the parents of the contracting parties and the prospective bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day. In addition to establishing that the required meeting would be a violation of custom or practice, the petitioner must also establish that any and all other aspects of the

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traditional arrangements have been or will be met in accordance with the customs or practice.

No claims have been made regarding a violation of long-established customs of the beneficiary's foreign culture or social practice which have prevented the couple from personally meeting during the two years immediately preceding the filing date of the visa petition. In a letter dated October 6, 1999, the petitioner acknowledges a lack of finances as the reason he and the beneficiary did not meet during the two-year period. The information provided by the petitioner does not support a finding that he would experience extreme hardship were he to travel to India for a brief period of time to meet with the beneficiary. It is concluded the petitioner has not provided any reason why the two-year requirement stipulated by law should be waived.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 C.F.R. 1361. The petitioner has not sustained that burden. Accordingly, the appeal will be dismissed. Nonetheless, this decision is without prejudice to the filing of a new petition along with supporting documents and appropriate fee, within two years after the petitioner and beneficiary have met in person.

ORDER: The appeal is dismissed.